

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY**

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LORRAINE H. LUCIANO, on  
behalf of herself and all others  
similarly situated,

*Plaintiff,*

v.

TEACHERS INSURANCE AND  
ANNUITY ASSOCIATION OF  
AMERICA - COLLEGE  
RETIREMENT EQUITIES FUND,  
et al.,

*Defendants.*

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: Civil Action No.:  
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: 3:15-cv-06726-RK-JBD  
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: MOTION DATE:  
: [UNSPECIFIED], 2025  
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**NOTICE OF MOTION FOR SUMMARY JUDGMENT**

PLEASE TAKE NOTICE that Defendants Educational Testing Service and Educational Testing Service Employee Benefits Administration Committee (collectively the “ETS Defendants) move before the Court, as soon as counsel may be heard, for an Order granting the ETS Defendants’ Motion for Summary Judgment pursuant to Federal Rule of Civil Procedure 56 and Local Civil Rule 56.1.

PLEASE TAKE FURTHER NOTICE that the ETS Defendants will support their motion by relying on their Memorandum of Law in Support of their Motion

for Summary Judgment, the ETS Defendants' Statement of Undisputed Material Facts Pursuant to Local Rule 56.1, and additional exhibits and declarations, all of which are served contemporaneously with this Notice of Motion.

PLEASE TAKE FURTHER NOTICE that the ETS Defendants' formal motion and proposed Order are attached.

Respectfully submitted,

/s/ Raymond A. Kresge

JEFFREY I. PASEK

RAYMOND A. KRESGE

Cozen O'Connor

1010 Kings Highway South

Cherry Hill, NJ 08034

(856) 910-5000

Attorneys for the ETS Defendants

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**THE ETS DEFENDANTS’ MOTION FOR SUMMARY JUDGMENT**

Pursuant to Federal Rules of Civil Procedure 56 and Local Civil Rule 56.1, Defendants Educational Testing Service (“ETS”) and Educational Testing Service Employee Benefits Administration Committee (collectively the “ETS Defendants”) hereby move this Court for summary judgment on Plaintiff’s claims in Counts I, II and III of the Amended Complaint that relate to the ETS 403(b) Plan. There are no genuine issues of material fact, and the ETS Defendants are entitled to judgment as a matter of law. Therefore, the ETS Defendants move for summary judgment on

Counts I, II and III in the Amended Complaint, which are the only remaining Counts against the ETS Defendants.

The ETS Defendants support their motion by relying on their Memorandum of Law in Support of their Motion for Summary Judgment, their Statement of Undisputed Material Facts Pursuant to Local Rule 56.1 and additional exhibits and declarations, all of which are served contemporaneously with this Motion and are incorporated herein by reference. In accordance with Local Civil Rule 7.1, Defendants have properly filed served a Notice of Motion and a proposed Order.

Respectfully submitted,

/s/ Raymond A. Kresge

JEFFREY I. PASEK

RAYMOND A. KRESGE

Cozen O'Connor

1010 Kings Highway South

Cherry Hill, NJ 08034

(856) 910-5000

Attorneys for the ETS Defendants

**CERTIFICATE OF SERVICE**

I do hereby certify that on this 26<sup>th</sup> day of November 2024, I caused to be served the foregoing (1) Notice of Motion for Summary Judgment, (2) Motion for Summary Judgment and (3) Proposed Order on Motion for Summary Judgment via email on all counsel of record.

/s/ Raymond A. Kresge  
RAYMOND A. KRESGE